

PLAINTIFF/PETITIONER/MOVANT'S NAME

*MONTGOMERY CARL AKERS*

PRISON NUMBER

*02866-081*

PLACE OF CONFINEMENT

*U.S. PENITENTIARY - ADX  
FLORENCE, COLORADO*

ADDRESS

*P.O. BOX 8500  
FLORENCE, CO: 81226***FILED**

APR 21 2008

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY *RM* DEPUTYUnited States District Court  
Southern District Of California

'08 CV 0725 H WMC

Civil No.

(TO BE FILLED IN BY U.S. DISTRICT COURT CLERK)

*MONTGOMERY CARL AKERS*

Plaintiff/Petitioner/Movant

v.

*JACQUELYN E. FOKUSEK*

Defendant/Respondent

**MOTION AND DECLARATION UNDER  
PENALTY OF PERJURY IN SUPPORT  
OF MOTION TO PROCEED IN FORMA  
PAUPERIS**I, *MONTGOMERY CARL AKERS*

declare that I am the Plaintiff/Petitioner/Movant in this case. In support of my request to proceed without prepayment of fees or security under 28 U.S.C. § 1915, I further declare I am unable to pay the fees of this proceeding or give security because of my poverty, and that I believe I am entitled to redress.

**In further support of this application, I answer the following question under penalty of perjury:**

1. Are you currently incarcerated?
- ☒
- Yes
- ☐
- No (If "No" go to question 2)

If "Yes," state the place of your incarceration *U.S. PENITENTIARY, FLORENCE, COLORADO*

Are you employed at the institution?

☐ Yes ☒ No

Do you receive any payment from the institution?

☐ Yes ☒ No

[Have the institution fill out the Certificate portion of this affidavit and attach a certified copy of the trust account statement from the institution of your incarceration showing at least the last six months transactions.]

*ATTACHED.*

2. Are you currently employed? ☐ Yes ☒ No

a. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer.

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b. If the answer is "No" state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

2005 / ?

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3. In the past twelve months have you received any money from any of the following sources?:

- |   |   |
|---|---|
| a. Business, profession or other self-employment  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| b. Rent payments, royalties interest or dividends | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| c. Pensions, annuities or life insurance          | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| d. Disability or workers' compensation            | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| e. Social Security, disability or other welfare   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| e. Gifts or inheritances                          | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| f. Spousal or child support                       | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| g. Any other sources                              | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

If the answer to any of the above is "Yes" describe each source and state the amount received and what you expect you will continue to receive each month.

5000 Fed Comm Issuance 5/07

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4. Do you have any checking account(s)? ☒ Yes ☐ No

a. Name(s) and address(es) of bank(s): ?

b. Present balance in account(s): ?

5. Do you have any savings/IRA/money market/CDS' separate from checking accounts? ☒ Yes ☐ No

a. Name(s) and address(es) of bank(s): ?

b. Present balance in account(s): ?

6. Do you own an automobile or other motor vehicle? ☐ Yes ☐ No (NOT SURE)

a. Make: Year: Model:

b. Is it financed? ☐ Yes ☐ No

c. If so, what is the amount owed?

7. Do you own any real estate, stocks, bonds, securities, other financial instruments, or other valuable property?

☒ Yes ☐ No

If "Yes" describe the property and state its value. UNKNOWN AT THIS TIME.

8. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support. NONE.

9. List any other debts (current obligations, indicating amounts owed and to whom they are payable):

\$100,000 ATTORNEY FEES TO STEPHEN STEIN, 520 E. FOURTH STREET, LAS VEGAS, NEVADA 89101

10. List any other assets or items of value (specify real estate, gifts, trusts inheritances, government bonds, stocks, savings certificates, notes, jewelry, artwork, or any other assets [include any items of value held in someone else's name]):

UNKNOWN AT THIS TIME.

11. If you answered all of the items in #3 "No," and have not indicated any other assets or sources of income anywhere on this form, you must explain the sources of funds for your day-to-day expenses.

**I declare under penalty of perjury that the above information is true and correct and understand that a false statement herein may result in the dismissal of my claims.**

DATE

4-03-08

SIGNATURE OF APPLICANT

If you are a **prisoner** you must have an officer from your institution provide this official certificate as to the amount of money in your prison account. There are no exceptions to this requirement.

**PRISON CERTIFICATE**  
**(Incarcerated applicants only)**  
 (To be completed by the institution of incarceration)

I certify that the applicant MONTGOMERY CARL ANKERS  
 (NAME OF INMATE)

#02866-081

(INMATE'S CDC NUMBER)

has the sum of \$ 0.49 on account to his/her credit at

ADX FLORENCE

(NAME OF INSTITUTION)

I further certify that the applicant has the following securities 10/A

to his/her credit according to the records of the aforementioned institution. I further certify that **during**

**the past six months** the applicant's *average monthly balance* was \$ 0.49

and the *average monthly deposits* to the applicant's account was \$ 0.00

**ALL PRISONERS *MUST* ATTACH A CERTIFIED COPY OF THEIR TRUST ACCOUNT STATEMENT SHOWING TRANSACTIONS FOR THE SIX-MONTH PERIOD IMMEDIATELY PRECEDING THE FILING OF THE COMPLAINT PER 28 U.S.C. § 1915(a)(2).**

March 25, 2008

DATE

[Signature]

SIGNATURE OF AUTHORIZED OFFICER OF INSTITUTION

Julie Gilbert

OFFICER'S FULL NAME (PRINTED)

Trust Fund Technician

OFFICER'S TITLE/RANK

**TRUST ACCOUNT WITHDRAWAL AUTHORIZATION**  
**(Incarcerated applicants only)**

(This form **MUST** be completed by the prisoner requesting to proceed in forma pauperis. An incomplete "Trust Account Withdrawal Authorization Form," or "Prison Certificate" will result in automatic denial of the prisoner's request to proceed in forma pauperis.)

I, MONTGOMERY C. AHERS #02866-087, request and authorize the agency holding me in custody to prepare for the Clerk of the United States District Court for the Southern District of California, a certified copy of the statement for the past six months of my trust fund account (or institutional equivalent) activity at the institution where I am incarcerated.

I further request and authorize the agency holding me in custody to calculate and disburse funds from my trust fund account (or institutional equivalent) pursuant to any future orders issued by the Court relating to this civil action pursuant to the Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, Title VIII, §§ 801-10, 110 Stat. 1321 (1996).

This authorization is furnished in connection with a civil action filed in the Southern District of California, and I understand that, pursuant to 28 U.S.C. §§ 1914 and 1915(b)(1), the total amount of filing fees for which I am obligated is either ☒ \$350 (civil complaint) or ☐ \$5 (habeas corpus petition) (check one). I also understand that this fee will be debited from my account regardless of the outcome of this action. This authorization shall apply to any other agency into whose custody I may be transferred.

DATE

4-03-08

SIGNATURE OF PRISONER

REQUEST TO STAFF MEMBER

MARCH 15, 2008

TO: FINANCE OFFICE, Florence U.S.P. Complex

From: ALCERB, Montgomery #02866-081  
G-B-408/ADP

PLEASE FIND ENCLOSED A "PRISON CERTIFICATE"  
ISSUED TO ME BY THE U.S. DISTRICT COURT, SOUTHERN  
DISTRICT OF CALIFORNIA, THAT MUST BE FILLED  
OUT AND SIGNED AND RETURNED TO ME, BY  
YOUR OFFICE.

PLEASE ALSO ATTACH MY CERTIFIED COPY  
OF MY TRUST ACCOUNT FOR THE LAST (6) MONTHS  
TO THE PRISON CERTIFICATE.

Thank You.

RECEIVED  
08 MAR 25 PM 1:18  
FCC FLORENCE  
FINANCIAL MANAGEMENT

Date: 04/02/2008  
Time: 11:32:26 am

Federal Bureau of Prisons  
TRUFACS  
**Inmate Statement**  
Sensitive But Unclassified

Facility: FLX

Start Date: 10/02/2007  
End Date: 04/02/2008  
Inmate Reg #: 02866081  
Account Status: All  
Institution: All

Date: 04/02/2008  
Time: 11:32:26 am

Federal Bureau of Prisons  
TRUFACS

Facility: FLX

**Inmate Statement**  
Sensitive But Unclassified

**CERTIFIED**

Inmate Reg#: 02866081  
Inmate Name: AKERS, MONTGOMERY CARL  
Current Site Name: Florence Complex  
Housing Unit: FLX-G-A

General Information  
Living Quarters: G04-208L  
Arrived From: FLX  
Transferred To:  
Account Creation Date: 5/29/2002

APR 02 2008  
FCC FLORENCE  
FINANCIAL MANAGEMENT

### Transaction Details

Alpha Code	Date Time	Reference #	Payment #	Receipt #	Transaction Type	Transaction Amount	Encumbrance Amount	Ending Balance
FLM	11/19/2007 11:11:44 AM	35			Sales	\$0.00		\$0.49
FLX	11/28/2007 06:05:58 AM	TX112807			Transfer - In from TRUFACS	\$0.49		\$0.49
FLM	11/28/2007 06:05:58 AM	1			Debt Encumbrance - Released		\$0.49	
FLX	11/28/2007 06:05:58 AM	1			Debt Encumbrance		(\$0.49)	
FLM	11/28/2007 06:05:58 AM	1			Transfer - Out to TRUFACS	(\$0.49)		\$0.00
Totals:						\$0.00	\$0.00	

### Current Balances

Alpha Code	Available Balance	Pre-Release Balance	Debt Encumbrance	SPO Encumbrance	Other Encumbrance	Outstanding Instruments	Administrative Holds	Account Balance
FLX	\$0.00	\$0.00	\$0.49	\$0.00	\$0.00	\$0.00	\$0.00	\$0.49
Totals:	\$0.00	\$0.00	\$0.49	\$0.00	\$0.00	\$0.00	\$0.00	\$0.49



Date: 04/02/2008  
Time: 11:32:27 am

Federal Bureau of Prisons  
TRUFACS  
**Inmate Statement**  
Sensitive But Unclassified

Facility: FLX

**General Information**

Inmate Reg#:	02866081	Living Quarters:	G04-208L
Inmate Name:	AKERS, MONTGOMERY CARL	Arrived From:	FLX
Current Site Name:	Florence Complex	Transferred To:	
Housing Unit:	FLM-G-A	Account Creation Date:	5/29/2002

**Other Balances**

National 6 Months Deposits	National 6 Months Withdrawals	National 6 Months Avg Daily Balance	Local Max. Balance - Prev. 30 Days	Average Balance - Prev. 30 Days	Commissary Restriction Start Date	Commissary Restriction End Date
\$0.00	\$0.00	\$0.49	\$0.49	\$0.49	N/A	N/A